

To: Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Wehling, Carrie
Sent: Mon 8/28/2017 3:49:34 PM
Subject: FW: EHN: Menominee Tribe seeks stricter federal oversight in Michigan mine fight

Another one that might be coming our way..... fyi

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From: Hurl, Kathy
Sent: Friday, August 25, 2017 7:26 PM
To: Goodin, John <Goodin.John@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Weinstock, Larry <Weinstock.Larry@epa.gov>
Subject: Fwd: EHN: Menominee Tribe seeks stricter federal oversight in Michigan mine fight

FYI

Sent from my iPhone

Begin forwarded message:

From: "Swenson, Peter" <swenson.peter@epa.gov>
Date: August 25, 2017 at 3:37:27 PM EDT
To: "Korleski, Christopher" <korleski.christopher@epa.gov>, "Melgin, Wendy" <melgin.wendy@epa.gov>, "Burdick, Melanie" <Burdick.Melanie@epa.gov>, "Pallesen, Reginald A." <pallesen.reginald@epa.gov>, "Wester, Barbara" <wester.barbara@epa.gov>,

"Hurlid, Kathy" <Hurlid.Kathy@epa.gov>

Subject: Fwd: EHN: Menominee Tribe seeks stricter federal oversight in Michigan mine fight

Sent from my iPhone

Begin forwarded message:

From: "Nowotarski, Allison" <nowotarski.allison@epa.gov>

Date: August 25, 2017 at 11:11:03 AM CDT

To: "Swenson, Peter" <swenson.peter@epa.gov>

Cc: "Kelley, Jeff" <kelley.jeff@epa.gov>, "Rowan, Anne" <rowan.anne@epa.gov>

Subject: EHN: Menominee Tribe seeks stricter federal oversight in Michigan mine fight

Menominee Tribe seeks stricter federal oversight in Michigan mine fight

The fate of a mine near headwaters of a sacred river hinges on a wetlands permit; the tribe wants tougher federal standards to apply—not looser state ones.

August 25, 2017

By Brian Bienkowski
Environmental Health News

In its continued fight against a mine near sacred waters, the Menominee Indians of Wisconsin want stronger federal regulations to apply as officials weigh the final permit for mine approval.

At issue is the Back Forty mine, a proposed 83-acre open pit gold, zinc and copper mine in the southwestern corner of Michigan's Upper Peninsula. The mine would sit within 150 feet of the Menominee River, which forms the Michigan-Wisconsin border—and is namesake for the Menominee Tribe across the border in Wisconsin.

Environmental Health News highlighted the Menominee's fight last year in "[Sacred Water](#)," a national look at how culturally significant water resources—both on and off reservation—get sullied, destroyed, defaced by activities often happening beyond Native Americans' control.

The mine was on track for approval but has been stagnant, as it still needs one permit—a wetlands permit—before beginning operation. The state of Michigan has controlled permitting to this point.

This week the Menominee tribe asked the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to take over authority for the wetland permit under Clean Water Act rules.

Menominee tribal member Burton Warrington said the Clean Water Act—specifically section 404(G)—allows for states or tribes to take over permitting control, but that doesn't mean all waterways.

"Everyone assumes Michigan has authority over the Menominee [River], but those waters may have never been assumed by the state," he said.

The permitting is crucial because of the location. The Menominee is a massive river system, making up the border between northern Wisconsin and Michigan's Upper Peninsula. More than 100 tributaries drain into it, a watershed covering 4,000 square miles. It supports large populations of bass, pike, walleye and spawning grounds for sturgeon.

Extracting metals from sulfide ores can produce highly toxic sulfuric acid. The acid can then release harmful metals and potentially drain into nearby rivers, lakes and ground water sources—called acid mine drainage.

Mine development company Aquila Resources submitted a wetland permit in 2016 that was withdrawn. It submitted another in January, which was sent back to the company with correction requests from the Michigan Department of Environmental Quality.

Joe Maki, mining specialist with the Michigan DEQ, said the state's wetland experts are still waiting on Aquila, which has sought an extension. "We're anticipating maybe by the end of this month we'll receive something," he said. "But we really don't know."

Any wetland permitting by the state would have to be approved by the EPA regardless, Maki said. "We could go ahead and issue permits, but if the EPA rejects it, [the state-issued permit] means nothing. If the EPA objects, it goes back to the applicant."

Warrington, however, said federal agencies have largely ignored tribal concerns up to this point due to Michigan's assumed authority.

"Federal agencies have told us 'we understand your issue, but there's nothing we can do because the state of Michigan has this authority,'" he said.

The Menominee letter comes on the heels of a [similar plea from U.S. Sen. Tammy Baldwin](#), Democrat of Wisconsin, who wrote to the EPA and Army Corps pleading for the agencies to take the project out of Michigan's hands.

"The fate of Wisconsin waters and communities should not be left to another state to decide," she wrote in her Aug. 18 letter.

EPA spokesperson, Allison Nowotarski, said the agency received the Menominee request on Wednesday afternoon but would not comment further.

Kathleen Heideman, who helps lead the Mining Action Group of the Upper Peninsula

Environmental Coalition, said in addition to the wetland permit it's still not clear if the state will swap land for the mine to take place.

The current mining plans are on a mix of private and state-owned land.

"About half the pit is on public land, and their plans make it seem as though the swap is a done deal," Heideman said. "But the public definitely hasn't commented on any swap."

Aquila, which did not return requests for comment, has promised jobs and economic windfalls from the mine. However, the siting has stirred controversy among nearby communities and residents who fear potential pollution from the mine.

The Menominee tribe has echoed those worries and raised additional concerns that the mine would sit near tribal burial sites and centuries old raised garden beds along the Menominee River, the center of the tribe's creation story.

Opposition has been growing. In addition to the Menominee, the Oneida Tribe of Wisconsin, the Bad River Ojibwe Tribe of Wisconsin, the Keweenaw Bay Indian Community of Michigan, the Pokagon Band of Potawatomi and the Saginaw Chippewa Tribe have passed resolutions against the mine.

The national nonprofit environmental organization American Rivers included the Menominee River in this year's annual Most Endangered Rivers report, due to the mining threat.

Three Wisconsin counties—Door, Brown and Marinette—passed resolutions against the mine. Last month 17 Wisconsin state representatives submitted a [bipartisan resolution](#) opposing the project. The mine, they said, has "potential negative impacts on the natural resources, public health, and economy of Northern Wisconsin."

Menominee Nation chairman Gary Besaw said opposing the mine has been a strain on the tribe but the fight must go on.

"This is our ancestral land. The maple trees, the sturgeon, wild rice, water, that's our responsibility," he said.

"We have no choice."